

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion
Into the Operations, Practices, Rates and Charges
of Hillview Water Company, Inc., a corporation,
and Roger L. Forrester, the principal shareholder
and president,

Investigation 97-07-018
(Filed July 16, 1997)

Respondents.

**ADMINISTRATIVE LAW JUDGE'S RULING
ON ISSUES AND FURTHER PROCEEDINGS**

Having considered the parties' respective case management statements submitted in response to my ruling of April 29, 2002; the respondents' "Motion for Estoppel to Ban, Bar, Prohibit and Preclude etc." tendered for filing on May 22 and filed August 6, 2002; Water Division's response thereto; respondents' reply to Water Division's response; respondents' "Motion to Compel Discovery, etc." tendered for filing on or about July 15, 2002, and filed August 22, 2002; Water Division's response thereto; and respondents' reply to that response,

IT IS HEREBY RULED:

1. The following issues of fact expressly raised by the Order Instituting Investigation (OII) shall be the only issues concerning which evidence will be taken at the hearing in this proceeding. More than five years having elapsed since the Commission issued the OII on July 16, 1997, Commission staff has had more than adequate opportunity to seek amendment of the OII to introduce new issues. It would be dilatory or prejudicial to consider evidence relating to any

new or different issues in the present proceeding. Evidence concerning such issues will only be introduced in this proceeding if the Commission amends the OII prior to submission of the proceeding, and the proceeding will not be stayed for such purpose without a substantial good cause showing.

Absent any Commission direction to the contrary, the issues to be heard:

- a. Whether, prior to July 16, 1997, the respondents violated Commission orders on extension of service to new customers.
- b. Whether, prior to July 16, 1997, respondents submitted falsified contracts or information in response to a request from the Commission.
- c. Whether, prior to July 16, 1997, respondents charged customers unauthorized fees for the connection of service and in turn rebated amounts in contravention of tariff and service extension requirements to shopping center developers.
- d. Whether, prior to July 16, 1997, respondents diverted revenue collected expressly to repay a Safe Drinking Water Quality Act loan from the special account and applied the funds to other purposes, including personal business use by respondent Forrester.
- e. Whether, prior to July 16, 1997, respondent Hillview submitted Advice Letter 53 for additional authority to expand facilities and to increase indebtedness and in it misstated the level of the special fund account due to diversion of funds in a manner prohibited by Commission rules or orders.
- f. Whether, prior to July 16, 1997, respondents overstated long term debt and Hillview's plant account by showing loans secured by Forrester for personal business as utility purpose indebtedness and for expenditure on plant used by Hillview.
- g. Whether, prior to July 16, 1997, the respondents secured a personal loan of \$350,000 from a developer, then asked the

Commission for authority to receive a Small Business Administration loan to repay it, without acknowledging that the loan was used, or intended to be used, for a personal or non-utility purpose.

2. Oral argument on respondents' pending "Motion to Compel Discovery, etc." shall be placed on the Law and Motion calendar for September 23, 2002. The final deadline for propounding any additional discovery requests is September 16, 2002. The final deadline to provide responses to all discovery requests is Friday, October 11, 2002.

3. The evidentiary hearing shall commence Monday, October 21, 2002, in Oakhurst, and shall conclude not later than Friday, October 25.

4. Two rounds of briefs shall be filed. Initial briefs are due Tuesday, November 12, 2002. Reply briefs are due Tuesday, November 19. Briefs shall comply with Commission Rule of Practice and Procedure (Rule) 75, and shall clearly state the specific statutory or other alleged violation when applying laws or regulations to the facts. The proceeding shall be submitted as of November 19, 2002.

5. The Report of the Large Water Branch dated November 20, 1997, is already in evidence in this proceeding. The matters addressed therein may be supplemented by the Supplemental Report of the Water Division dated August 2002, but only to the extent that it augments the showing concerning issues identified in Paragraph 1. No other matters in the Supplemental Report or exhibits relating to such matters will be considered in this proceeding.

6. Respondents shall serve responsive prepared testimony upon staff, as provided in Ordering Paragraph 3 of the OII, by not later than October 11, 2002, and shall furnish a copy to me as required by Commission Rule 68.

7. Not later than five days prior to the hearing the parties shall meet and confer for the purpose of shortening the proof of facts at the hearing. At this meeting the parties shall:

- a. Exchange and pre-mark in numerical order all documents and other evidence they intend to offer at the hearing.
- b. State to the opposing party any objections they may have to the introduction of any exhibit intended to be offered.
- c. Enter into a written stipulation encompassing the following:
 - (1) The exhibits, as premarked, that may be received in evidence without further proof.
 - (2) Any uncontested facts which are relevant to the issues, including the dates of relevant acts and occurrences.

The parties shall furnish the original executed stipulation to me for inclusion in the record before commencement of the evidentiary hearing.

8. Any preliminary motion (motion in limine) on an evidentiary objection or other issue shall be filed not less than five days before commencement of the hearing, and shall be separately served upon me by expedited means.

9. A party's failure to comply with any requirement of this ruling may result in sanctions being imposed upon that party, including issue sanctions.

Dated September 10, 2002, at San Francisco, California.

/s/ Victor D. Ryerson
Victor D. Ryerson
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Issues and Further Proceedings on all parties of record in this proceeding or their attorneys of record.

Dated September 10, 2002, at San Francisco, California.

/s/ Antonina V. Swansen

Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

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